

**PROVISO**

**SUBCOMMITTEE**

**RECOMMENDATIONS**



**LAW ENFORCEMENT**

**AND**

**CRIMINAL JUSTICE**

**PROVISO SUBCOMMITTEE  
LAW ENFORCEMENT AND CRIMINAL JUSTICE  
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TO THE HOUSE WAYS AND MEANS COMMITTEE**

**SECTION 37 - P24 - DEPARTMENT OF NATURAL RESOURCES**

- 37.5**     **AMEND** (Proportionate Funding) Directs that a proportionate share of funds, at \$15,000 per district, be allocated to each of the State's 46 Soil and Water Conservation Districts for general assistance to the district's programs. Directs that available funds above the \$15,000 will be apportioned by DNR based on local needs and priorities as determined by the board. Directs that during the fiscal year, district funding may only be reduced in an amount not to exceed the percentage of each agency budget reduction. Directs that no districts shall receive these funds unless the county or counties within the district have appropriated at least \$300 to the district for the same purposes.

**PROVISO SUBCOMMITTEE RECOMMENDATION:** AMEND proviso to change "\$15,000" to "\$13,674." *Reflects the budget reductions the agency has taken during FY 09-10.* Fiscal Impact: No impact on the General Fund. Statewide the reduction is \$60,982. Reduced amount conforms to funding provided. Requested by Department of Natural Resources.

**37.5.** (DNR: Proportionate Funding) Each of South Carolina's 46 soil and water conservation districts shall receive a proportionate share of funding set aside for Aid to Conservation Districts at ~~\$15,000~~ \$13,674 per district for general assistance to the district's program. Available funding above ~~\$15,000~~ \$13,674 for each district will be apportioned by the Department of Natural Resources based upon local needs and priorities as determined by the board. During the fiscal year, the districts' funding may only be reduced in an amount not to exceed the percentage of each agency budget reduction. No district shall receive any funds under this provision unless the county or counties wherein the district is located shall have appropriated no less than three hundred dollars to the district from county funds for the same purposes.

**SECTION 44 - B04 - JUDICIAL DEPARTMENT**

- 44.17**     **DELETE** (Marshal of the Supreme Court) Directs the Office of State Budget, if the provisions of proviso 49A.5 apply July 1, 2009, to transfer all funds and FTE's authorized in Part IA, Section 44.V.D. for operation of the Marshal of the Supreme Court back to the appropriations categories of the agencies they were drawn from.

**PROVISO SUBCOMMITTEE RECOMMENDATION:** DELETE proviso. *Creation of the Capitol Police Force was not enacted into law.* Fiscal Impact: No impact on the General Fund. Requested by Judicial Department.

**44.17.** (JUD: Marshal of the Supreme Court) ~~If the provisions of paragraph 49A.1 of this Part apply July 1, 2009, then the Office of State Budget shall transfer all amounts otherwise appropriated and FTE's authorized in Part IA, Section 44.V.D. of this act for the operations of the Marshal of the Supreme Court to the appropriations categories of those agencies from whence those funds and FTE's were drawn to provide for the Marshal of the Supreme Court.~~

**SECTION 45 - E20 - ATTORNEY GENERAL'S OFFICE**

- 45.6**     **AMEND** (Auction Rate Securities Settlement/Water Rights) Authorizes the Attorney General to use \$2,200,000 of Auction Rate Securities Settlement funds to pay expenses and fees associated with the South Carolina vs. North Carolina water lawsuit (U.S. Supreme Court Original Jurisdiction Case Number 138). Directs that the \$2.2 million shall not include the

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\$750,000 currently allocated for securities enforcement expenses. Authorizes a portion of the \$2.2 million be used to reimburse Water Litigation expenses incurred in the prior fiscal year.

**PROVISO SUBCOMMITTEE RECOMMENDATION:** AMEND proviso to delete the authorization to use up to \$2.2 million of Auction Rate Securities Settlement funds to pay for expenses and fees associated with the water lawsuit, and instead authorize funds received from the settlement to be retained and expended in FY 09-10 and FY 10-11 for the same purpose. Authorize these funds to be carried forward from and used for the same purpose. Direct that once the SC vs. NC water lawsuit has been satisfied, any remaining Auction Rate Securities Settlement funds be deposited into the general fund. Direct that this provision takes effect on the earlier of July 1, 2010, or the date on which water settlement revenue in Fiscal Year 2009-10 exceeded \$2,200,000. Fiscal Impact: Litigation expenses through FY 09 = \$1,683,187. Amendment will allow the Attorney General to use +\$851,000 from FY 10-11 and +\$434,000 in FY 10-11. Requested by Attorney General's Office.

**45.6.** (AG: Auction Rate Securities Settlement/Water Rights) The Attorney General's Office is authorized to ~~utilize up to \$2,200,000 of~~ retain and expend funds received in Fiscal Year 2009-10 and in Fiscal Year 2010-11 from the "Auction Rate Securities Settlement" to pay for expenses and fees associated with the South Carolina vs. North Carolina water lawsuit (United States Supreme Court original Jurisdiction Case Number 138.) ~~The \$2,200,000 shall not include the \$750,000 the Attorney General's Office currently allocates for securities enforcement expenses.~~ The Attorney General's Office is authorized to use a portion of the ~~\$2,200,000~~ these funds to reimburse Water Litigation expenses incurred in the prior fiscal year. These funds may be carried forward from the prior fiscal year into the current fiscal year and be utilized for the same purpose. Upon satisfaction of the South Carolina vs. North Carolina water lawsuit, any remaining Auction Rate Securities Settlement funds shall be deposited into the general fund. This paragraph takes effect on the earlier of July 1, 2010, or the date on which water settlement revenue in Fiscal Year 2009-10 exceeded \$2,200,000.

**SECTION 46 - E21 - PROSECUTION COORDINATION COMMISSION**

**46.6** **AMEND** (Solicitors Victim/Witness Assistance Programs) Directs that Solicitors Victim/Witness Assistance Programs funds be apportioned among the circuits on a per capita basis based on the 2000 census. Directs that payments be made as soon after the beginning of each quarter as practical.

**PROVISO SUBCOMMITTEE RECOMMENDATION:** AMEND proviso to specify that the funds are to be apportioned by this method "When funds are available." Fiscal Impact: No impact on the General Fund.

**46.6.** (PCC: Solicitors Victim/Witness Assistance Programs) ~~The~~ When funds are available, the amount appropriated and authorized in Part IA, Section 46 for Solicitors Victim/Witness Assistance Programs shall be apportioned among the circuits on a per capita basis and based upon the official census of 2000. Payment shall be made as soon after the beginning of each quarter as practical.

**46.7** **DELETE** (Criminal Domestic Violence Prosecution) Directs that \$2,200,000 of Criminal Domestic Violence (CDV) Prosecution funds be apportioned equally among the circuits with any remaining balance apportioned on a per capita basis based on the 2000 Census. Directs that the funds may only be used for criminal domestic violence prosecution in magistrate and

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circuit courts. Directs that payment be made as soon after the beginning of each quarter as practical. Requires each Solicitor to designate at least one individual prosecutor per county for this purpose and allows a Solicitor and the Attorney General to partner to accomplish these provisions. Requires the commission to retain CDV prosecution information and data and provide information to the General Assembly in an annual report within 60 days after the end of the fiscal year on charges prosecuted by assistant solicitors who are compensated with these funds. Requires that the report include an accounting of the expenditures of the funds, statistics regarding location, number and type of criminal domestic violence charges, number of cases prosecuted, and disposition of the cases, unless the information is privileged by law.

**PROVISO SUBCOMMITTEE RECOMMENDATION:** DELETE proviso. *Dedicated funding for this item was eliminated in the budget. See new proviso 46.vc.* Fiscal Impact: No impact on the General Fund. Requested by Prosecution Coordination Commission.

~~46.7. (PCC: Criminal Domestic Violence Prosecution) Of the amount appropriated in Part IA, Section 46, for Criminal Domestic Violence Prosecution, \$2,200,000 shall be apportioned equally among the circuits and the balance thereafter remaining shall be apportioned among the circuits on a per capita basis and based upon the Official Census of 2000. The amount appropriated shall be used solely for the purpose of criminal domestic violence prosecution in the magistrate and circuit courts. Payment shall be made as soon after the beginning of each quarter as practical. Each Solicitor shall designate at least one individual prosecutor per county for this purpose. A Solicitor and the Attorney General may partner to accomplish these provisions. The Prosecution Coordination Commission shall retain information and data on criminal domestic violence prosecutions and shall provide the General Assembly with an annual report no later than sixty days after the conclusion of the fiscal year of those charges prosecuted by assistant solicitors compensated with these funds. If not privileged information by law, the report shall at a minimum include an accounting of the expenditures of the funds as well as information and statistics regarding the location, the number and type of criminal domestic violence charges, the number of cases prosecuted, and the disposition of the cases.~~

- 46.8** **DELETE** (DUI Prosecution) Directs that funds appropriated for Driving Under the Influence Prosecution be apportioned equally among the circuits and directs that these funds may only be used for prosecuting DUI in magistrate and circuit courts. Directs that payment be made as soon after the beginning of each quarter as practical. Requires the commission to retain information and data on DUI prosecutions and provide an annual report to the General Assembly no later than 60 days after the end of the fiscal year on charges prosecuted by assistant solicitors who are compensated with these funds. Requires that the report, at a minimum include an accounting of expenditure of the funds, information and statistics regarding the location, number and type of DUI charges, number of cases prosecuted, and disposition of the cases.

**PROVISO SUBCOMMITTEE RECOMMENDATION:** DELETE proviso. *Dedicated funding for this item was eliminated in the budget. See new proviso 46.vc.* Fiscal Impact: No impact on the General Fund. Requested by Prosecution Coordination Commission.

~~46.8. (PCC: DUI Prosecution) The amount appropriated in Part IA, Section 46, for Driving Under the Influence Prosecution shall be apportioned equally among the circuits. The amount appropriated shall be used solely for the purpose of driving under the influence prosecution in the magistrate and circuit courts. Payment shall be made as soon after the beginning of each quarter as practical. The Prosecution Coordination Commission shall retain~~

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~~information and data on driving under the influence prosecutions and shall provide the General Assembly with an annual report no later than 60 days after the conclusion of the fiscal year of those charges prosecuted by assistant solicitors compensated with these funds. The report shall at a minimum include an accounting of the expenditure of the funds as well as information and statistics regarding the location, the number and type of driving under the influence charges, the number of cases prosecuted, and the disposition of the cases.~~

- 46.vc ADD** (Violent Crime, CDV, DUI Prosecution) **SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to require the commission to retain violent crime, CDV and DUI prosecution information and data and provide information to the General Assembly in an annual report within 60 days after the end of the fiscal year on charges prosecuted by assistant solicitors. Require that the report include, unless privileged by law, information and statistics regarding location, number and type of violent crime, CDV, and DUI charges, number of cases prosecuted, and disposition of the cases. Fiscal Impact: No impact on the General Fund. Requested by Prosecution Coordination Commission.

*46.vc. (PCC: Violent Crime, CDV, DUI Prosecution) The Prosecution Coordination Commission shall retain information and data on violent crime, criminal domestic violence, and driving under the influence prosecutions and shall provide the General Assembly with an annual report no later than 60 days after the conclusion of the fiscal year of those charges prosecuted by assistant solicitors. If not privileged information by law, the report shall at a minimum include information and statistics regarding the location, the number and type of violent crime, criminal domestic violence, driving under the influence charges, the number of cases prosecuted, and the disposition of the cases.*

**SECTION 47 - E23 - COMMISSION ON INDIGENT DEFENSE**

- 47.5 AMEND** (Civil Court Appointments) Directs the expenditure of Civil Court Appointments funds to reimburse court appointed private attorneys for Civil Court Appointments including Termination of Parental Rights, Abuse and Neglect, Probate Court Commitments, Sexually Violent Predator Act, and Post Conviction Relief. Prohibits Civil Court Appointments funds from being transferred or used for any other purpose. Directs that Civil Court Appointments funds also be used to reimburse private attorney's appointed by the Family Court to serve as guardians ad litem, where volunteer appointments cannot be made. Establishes a reimbursement rate based of \$50 per hour or on the basis of a set (flat) fee, directs that the set fee payment method and amount be determined by the Commission on Indigent Defense, and limits reimbursement to \$2,000 per case. Provides guidelines for reimbursement to exceed these limits. Directs the court to authorize defendant's attorneys to obtain investigative, expert, or other services if such services are found to be reasonable and necessary and to order the Office of Indigent Defense to pay such fees and expenses, not to exceed \$500, as the court considers appropriate. Provides guidelines for payment to exceed these limits. Requires indigent defense vouchers to be reviewed and paid pursuant to procedures and policies established by the commission and directs the commission to provide a copy of the procedures and policies to the Senate Finance and House Ways and Means Committees. Authorizes a portion of Civil Court Appointment funds to be used by the commission to retain, on a contractual basis, the services of attorneys qualified to handle civil court appointments and directs that their services be reimbursed in accordance with applicable provisos and statutes.

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**PROVISO SUBCOMMITTEE RECOMMENDATION:** AMEND proviso to direct that reimbursement of fees that are in excess of the established rate are to be certified by the court in a written order with specific findings “prior to the fees being incurred.” Fiscal Impact: No impact on the General Fund. Requested by Commission on Indigent Defense.

**47.5.** (INDEF: Civil Court Appointments) The funds appropriated under “Civil Court Appointments” shall be used for Civil Court Appointments including Termination of Parental Rights, Abuse and Neglect, Probate Court Commitments, Sexually Violent Predator Act, and Post Conviction Relief (PCR) to reimburse court appointed private attorneys and for other expenditures as specified in this provision. Civil Court Appointments funds may not be transferred or used for any other purpose.

A portion of the funds appropriated under “Civil Court Appointments” shall be used for “Termination of Parental Rights” cases and “Abuse and Neglect” cases to reimburse private attorneys who are appointed by the Family Court to serve as guardians ad litem, where volunteer appointments cannot be made and to represent guardians ad litem, children, or parents under the provisions of S.C. Code Sections 20-7-110 et seq., 20-7-1570 et seq., 20-7-1695 (A)(2) et seq., 20-7-7205 et seq., and 20-7-8705 (4)(a) et seq.; for “Probate Court Commitment” cases to reimburse private attorneys who are appointed by the Probate Court to represent indigent persons; and for “Sexual Violent Predator” cases to reimburse private attorneys who are appointed by the Circuit Court pursuant to Sections 44-48-10, et seq., to represent indigent persons. When private counsel is appointed pursuant to these provisions, counsel shall be reimbursed a reasonable fee to be determined on the basis of fifty dollars per hour or reimbursement may also be made on the basis of a set (flat) fee. The method of payment and the amount of the set fee will be determined by the Commission on Indigent Defense. Reimbursement shall not exceed two thousand dollars for any case under which such private attorney is appointed. Reimbursement in excess of the hourly rate and limit set forth herein is authorized only if the court certifies, in a written order with specific findings of fact, prior to the fees being incurred, that reimbursement in excess of the rates or limit is necessary to provide reimbursement adequate to ensure effective assistance of counsel and reimbursement in excess of the limit is appropriate because the services to be provided were reasonable and necessarily incurred are reasonable and necessary. Upon a finding in ex parte proceedings that investigative, expert, or other services are reasonable and necessary for the representation of the defendant, the court shall authorize the defendant’s attorney to obtain such services on behalf of the defendant and shall authorize the payment, from funds available to the Office of Indigent Defense, of fees and expenses not to exceed five hundred dollars as the court considers appropriate. Payment in excess of the five hundred dollar limit is authorized only if the court certifies, in a written order with specific findings of fact, prior to the expense being incurred, that payment in excess of the limit is appropriate because the services to be provided were are reasonable and necessarily incurred necessary to provide adequate defense. Payments shall be made from funds appropriated for this purpose from the Commission of Indigent Defense.

Indigent defense vouchers authorized in this provision must be reviewed and paid pursuant to procedures and policies established by the Commission on Indigent Defense. The commission shall provide a copy of the established procedures and policies to the Senate Finance Committee and the House Ways and Means Committee.

A portion of the funds appropriated under “Civil Court Appointments” may be used by the Commission on Indigent Defense to retain, on a contractual basis, the services of attorneys qualified to handle civil court appointments, to be reimbursed in accordance with applicable provisos and statutes.

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- 47.11 AMEND** (Defense of Indigents Civil Action Application Fee) Requires a person to whom counsel has been provided in a termination of parental rights (TPR), abuse and neglect, or any other civil court action to execute an affidavit that they are financially unable to employ counsel and include in the affidavit all of the person's assets. Authorizes the court, if the person has some assets, but not enough to employ counsel, to order a person to pay those assets or portion of them to the Commission on Indigent Defense. Requires a \$40 application fee from every person who executes such affidavit and to apply for a waiver. Directs the clerk of court or other appropriate official to collect the application fee and remit the proceeds to the Public Defender Application Fund on a monthly basis. Requires the monies be deposited in an interest bearing account separate from the general fund and be used only to provide indigent defense services. Directs the Commission on Indigent Defense administer the monies. Requires that a record be maintained by the clerk of court or other appropriate official of all persons who apply for representation and the disposition of the application and to provide this information as well as the amount of funds collected or waived to the commission on a monthly basis. Directs a juvenile's parents or legal guardian to execute the affidavit based on their financial status and be responsible for paying any fee and to be informed of this requirement in writing. States that this provision shall not restrict or hinder a court from appointing counsel in emergency proceedings or where existing statutes do not provide sufficient time to complete the application process. Directs that appointment of counsel creates a claim against the assets and estate of the person provided counsel or the parents or legal guardians of a juvenile in an amount equal to the costs of representation as determined by a voucher submitted by the appointed counsel and approved by the court, less that amount that the person pays to the appointed counsel. Directs that such claim be filed with the clerk of court in the county where the person is assigned counsel. Directs that filing a claim shall not constitute a lien against real or personal property unless, at the court's discretion, part or all of such claim is reduced to judgment by appropriate court order, after serving the person with at least 30 days' notice that judgment will be entered. Directs that when a claim is reduced to judgment, it has the same effect as judgments, except as modified by this provision.

**PROVISO SUBCOMMITTEE RECOMMENDATION:** AMEND proviso to require a person "requesting appointment of counsel" rather than "to whom counsel has been provided" in a termination of parental rights, abuse and neglect, or other civil court action to execute an affidavit that they are financially unable to employ counsel "before counsel may be appointed." Fiscal Impact: No impact on the General Fund. Requested by Commission on Indigent Defense.

**47.11. (INDEF: Defense of Indigents Civil Action Application Fee) (A)** A person to whom requesting appointment of counsel ~~has been provided~~ in any termination of parental rights (TPR), abuse and neglect, or any other civil court action in this state shall execute an affidavit that the person is financially unable to employ counsel and that affidavit shall set forth all of the person's assets. This affidavit must be completed before counsel may be appointed. If it appears that the person has some assets but they are insufficient to employ private counsel, the court, in its discretion, may order the person to pay these assets or a portion thereof to the Commission on Indigent Defense.

(B) A forty dollar application fee for appointed counsel services must be collected from every person who executes an affidavit that they are financially unable to employ counsel. The person may apply to the court, the clerk of court, or other appropriate official for a waiver or reduction in the application fee. If it is determined that the person is unable to pay the application fee, the fee may be waived or reduced, provided that if the fee is waived or reduced, the clerk or appropriate official shall report the amount waived or reduced to the trial judge and

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the trial judge shall order the remainder of the fee paid by a time payment method or such method as the trial judge deems appropriate. The clerk of court or other appropriate official shall collect the application fee imposed by this section and remit the proceeds to the Commission on Indigent Defense on a monthly basis. The monies must be deposited in an interest-bearing account separate from the general fund and used only to provide for indigent defense services. The monies shall be administered by the Commission on Indigent Defense. The clerk of court or other appropriate official shall maintain a record of all persons applying for representation and the disposition of the application and shall provide this information to the Commission on Indigent Defense on a monthly basis as well as reporting the amount of funds collected or waived.

(C) In matters in which a juvenile is brought before a court, the parents or legal guardian of such juvenile shall execute the above affidavit based upon their financial status and shall be responsible for paying any fee. In matters concerning juveniles, the parents or legal guardians of said juvenile, shall be advised in writing of this requirement at the earliest stage of the proceedings against said juvenile.

(D) Nothing contained above shall restrict or hinder a court from appointing counsel in any emergency proceedings or where existing statutes do not provide sufficient time for an individual to complete the application process.

(E) The appointment of counsel, as herein before provided, creates a claim against the assets and estate of the person who is provided counsel or the parents or legal guardians of a juvenile in an amount equal to the costs of representation as determined by a voucher submitted by the appointed counsel and approved by the court, less that amount that the person pays to the appointed counsel.

(F) Such claim shall be filed in the office of the clerk of court in the county where the person is assigned counsel, but the filing of a claim shall not constitute a lien against real or personal property of the person unless, in the discretion of the court, part or all of such claim is reduced to judgment by appropriate order of the court, after serving the person with at least thirty days' notice that judgment will be entered. When a claim is reduced to judgment, it shall have the same effect as judgments, except as modified by this provision.

- 47.12 DELETE** (Family Court Attorney Appointment Study Group) Directs the Commission on Indigent Defense and DSS to jointly study the issue of appointing private attorneys in termination of parental rights and abuse and neglect cases. Directs the agencies to develop proposals to significantly reduce or eliminate members of the private bar from being appointed. Directs that proposals be presented to the Chairmen of the Senate Finance and House Ways and Means Committees by October 1, 2009.

**PROVISO SUBCOMMITTEE RECOMMENDATION:** DELETE proviso. *Report submitted.* Fiscal Impact: No impact on the General Fund. Requested by Commission on Indigent Defense.

~~**47.12.** (INDEF: Family Court Attorney Appointment Study Group) The Commission on Indigent Defense and the Department of Social Services shall jointly study the issue of the appointment of private attorneys in termination of parental rights and abuse and neglect cases. The agencies shall develop proposals to significantly reduce or eliminate members of the private bar from being assigned these appointments. The agencies shall present proposals to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee no later than October 1, 2009.~~

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**SECTION 49 - K05 - DEPARTMENT OF PUBLIC SAFETY**

- 49.6 DELETE** (Hunley Security) Directs DPS to assign two law enforcement officers to provide security services for the H.L. Hunley at the Warren Lasch Laboratory in Charleston using the funds appropriated to the department.  
**PROVISO SUBCOMMITTEE RECOMMENDATION:** DELETE proviso. *Funds are no longer being received for this purpose and DPS is no longer being requested to provide a security detail.* Fiscal Impact: No impact on the General Fund. Requested by Department of Public Safety.

~~**49.6.** (DPS: Hunley Security) From the funds appropriated to the Department of Public Safety, the department is directed to assign two law enforcement officers to provide security services for the H.L. Hunley at the Warren Lasch Laboratory in Charleston.~~

- 49.dmv ADD** (Retention of DMV Cash Transfer) **PROVISO SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to authorize DPS to retain, expend, and carry forward funds transmitted by DMV without any specific restrictions for the use of these funds pursuant to proviso 90.20 (SR: DMV Cash Transfer) of Act 23 of 2009. Fiscal Impact: No impact on the General Fund. The department anticipates carrying forward \$2,000,000.

*49.dmv. (DPS: Retention of DMV Cash Transfer) The Department of Public Safety is hereby authorized to retain, expend, and carry forward funds transmitted by the Department of Motor Vehicles without any specific restrictions for the utilization of these funds pursuant to proviso 90.20 (SR: DMV Cash Transfer) of Act 23 of 2009.*

**SECTION 49A - K09-CAPITOL POLICE FORCE**

- 49A.1 DELETE** (Dispositions if Agency Not Established) Provides directives in the event legislation enacting the Capitol Police Force is not adopted by the General Assembly and in effect as of July 1, 2009.  
**PROVISO SUBCOMMITTEE RECOMMENDATION:** DELETE proviso.

~~**49A.1.** (CPF: Dispositions if Agency Not Established) (A) The provisions of this paragraph apply if legislation is not enacted and in effect as of July 1, 2009, establishing in permanent law the Capitol Police Force. In that eventuality, the provisions of this paragraph and paragraph 44.17 of this Part apply and are deemed the intention of and the last expression of the General Assembly with respect to all matters addressed by this paragraph and paragraph 44.17.~~

~~(B) The provisions of paragraphs 49A.1 through 49A.4 of this section are suspended and the following numbered paragraphs contained in this Part IB are amended, effective July 1, 2009, to read:~~

~~Section 48—D10—State Law Enforcement Division~~

~~“**48.8.**—(SLED: Detective/Security Fee) The State Law Enforcement Division is hereby authorized to charge and collect additional license and registration fees for private detective businesses, private security businesses, including employees of these businesses, and companies which provide private security on their own premises. The funds generated will be transmitted to the Department of Public Safety and used for the purpose of providing additional security in the Capitol Complex area.”~~

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~~Section 49—K05—Department of Public Safety~~

~~“49.2. (DPS: Retention of Private Detective Fees) The Department of Public Safety is hereby authorized to receive, expend, retain, and carry forward all funds transmitted from SLED related to fees charged and collected by SLED from license and registration fees for private detective businesses, private security businesses, including employees of these businesses, and companies which provide private security on their own premises. The funds transferred are to be used in the Bureau of Protective Services Program to provide security for state agencies and the Capitol Complex.”~~

~~Section 68A—U12—Department of Transportation~~

~~“68A.13. (DOT: Shop Road Farmers Market Bypass Carry Forward) Unexpended funds appropriated for the Shop Road Farmers Market Bypass may be carried forward into the current fiscal year and expended for the matching requirement for the widening and expansion of Leesburg Road from Fairmont to Wildeat Road (Lower Richland roads Phase I).”~~

~~Section 89—X90—General Provisions~~

~~“89.80. (GP: Lt. Governor Security Detail) The State Law Enforcement Division (SLED) shall provide a security detail to the Lieutenant Governor in a manner agreed to by SLED and the Lieutenant Governor’s Office. Reimbursement to SLED to offset the cost of the security detail for the Lieutenant Governor’s Office shall be made in an amount agreed to by SLED and the Lieutenant Governor’s Office from funds appropriated to the Lieutenant Governor’s Office for this purpose.”~~

~~(C) The Office of State Budget shall transfer all amounts otherwise appropriated and FTE’s authorized in Part IA, Section 49A of this act for the operations of the Capitol Police Force to the appropriations categories of those agencies from whence those funds and FTE’s were drawn to establish the Capitol Police Force.~~

**SECTION 52 - N08 - DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES**

**52.2 AMEND** (Interstate Compact Application Fee) Authorizes the department to charge offenders applying for transfers out of state under the Interstate Compact Act, an application fee not to exceed \$100 and to retain and carry forward these funds to offset the cost of the Interstate Compact Act.

**PROVISO SUBCOMMITTEE RECOMMENDATION:** AMEND proviso to also charge the application fee to offenders who transfer into the state. *Allows the department to recover costs associated with offenders transferring into the state.* Fiscal Impact: The department stated that the total number of cases accepted by this state between 1/1/09 and 1/1/10 was 1,373. Had this provision been in place it would have generated \$137,300 in revenue for the department during that time period. Requested by Department Probation, Parole and Pardon Services.

**52.2.** (DPPP: Interstate Compact Application Fee) The department may charge offenders an application fee set by the department, not to exceed \$100, to offenders applying for transfers out of or into the state under the Interstate Compact Act. The application fee shall be retained by the department to offset the cost of the Interstate Compact Act. All unexpended funds at year-end may be retained and carried forward by the department to be expended for the same purpose.

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**SECTION 53 - N12 - DEPARTMENT OF JUVENILE JUSTICE**

**53.pip** **ADD** (Emergency Authority to Transfer PIP Funds) **PROVISO SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to authorize DJJ to transfer up to \$1,500,000 of its Permanent Improvement Project (PIP) funds, excluding Capital Improvement Bond funds, to its operating and personal service accounts, if those funds are unobligated or not committed for active permanent improvement projects. Authorize DJJ to use these funds in FY 2010-11 as necessary order to maintain constitutional conditions in its institutional facilities and residential programs. *Use of these funds could alleviate the need to close facilities in the event future budget reductions occur.* Fiscal Impact: No impact on the General Fund. \$1,500,000 of PIP funds previously allocated to DJJ would be used for operating and personal services. Total remaining balances for 19 projects as of 1/8/10 in appropriated state funds = \$1,684,477. Requested by Department of Juvenile Justice.

*53.pip. (DJJ: Emergency Authority to Transfer PIP Funds) The Department of Juvenile Justice is authorized to transfer to its operational and/or personnel accounts up to \$1,500,000 of Permanent Improvement Project (PIP) funds, excluding Capital Improvement Bond funds, that have been previously allocated to the department by the General Assembly/Joint Bond Review Committee and approved by the Budget and Control Board, if those funds are unobligated or not otherwise committed by the department for active permanent improvement projects. The department may utilize these funds in Fiscal Year 2010-11 as necessary in order to maintain constitutional conditions in its institutional facilities and residential programs.*

**53.er** **ADD** (DJJ: Emergency Release for Community Evaluation) **PROVISO SUBCOMMITTEE RECOMMENDATION:** ADD new proviso to authorize DJJ to allow any child adjudicated delinquent for a status offense, for a misdemeanor offense other than Assault and Battery of a High and Aggravated Nature, or Assault with Intent to Kill, or for violation of probation/contempt for any offense and who is temporarily committed to DJJ custody for a residential evaluation, to reside in his home or home community while the evaluation of the child is being conducted, unless the committing judge determines that the child presents an unreasonable flight or security risk. *DJJ currently does not have the authority to conduct a community evaluation resulting in the child being housed in a DJJ facility for evaluation prior to sentencing for up to 45 days.* Fiscal Impact: The department states they would generate approximately \$400 additional federal "Medicaid" funds per evaluation since community evaluations are "Medicaid" eligible and evaluations in DJJ evaluation centers are not. Requested by Department of Juvenile Justice.

*53.er. (DJJ: Emergency Release for Community Evaluation) The Department of Juvenile Justice is authorized to allow any child adjudicated delinquent for a status offense, for a misdemeanor offense other than Assault and Battery of a High and Aggravated Nature, or Assault with Intent to Kill, or for violation of probation/contempt for any offense who is temporarily committed to its custody for a residential evaluation, to reside in that child's home or in his home community while undergoing a community evaluation, unless the committing judge finds and concludes in the order for evaluation, that a community evaluation of the child shall not be conducted because the child presents an unreasonable flight or public safety risk to his home community.*

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**53.ecc**    **ADD (Earned Compliance Credit) PROVISO SUBCOMMITTEE RECOMMENDATION:**  
ADD new proviso to authorize DJJ to grant probationers and parolees under their supervision a reduction of their probationary or parole term of up to ten days for each month they are compliant with the terms and conditions of their probation or parole order. State that this authorization is granted in order to avoid unconstitutional levels of overcrowding and prevent other unconstitutional conditions from occurring in residential programs operated for the DJJ, and in order to reduce probation and parole officers caseloads so they can better focus their attention and limited resources on offenders who pose a greater threat to public safety. *Currently children committed to DJJ can earn compliance credit, but children under probation or parole do not have that opportunity.* Fiscal Impact: No impact on the General Fund.

*53.ecc. (DJJ: Earned Compliance Credit) In order to avoid unconstitutional levels of overcrowding and other unconstitutional conditions from occurring in residential programs operated for the Department of Juvenile Justice, and in order to reduce caseloads of the Department's probation and parole officers so that these officers can better focus their attention and limited resources on those offenders who pose a greater threat to public safety, the Department is authorized to grant up to a ten day reduction of their probationary or parole term to probationers and parolees who are under its supervision for each month they are compliant with the terms and conditions of their probation or parole order.*

**53.era**    **ADD (DJJ: Early Release Authorization) SUBCOMMITTEE RECOMMENDATION:**  
ADD new proviso to direct that the number of children housed in residential placements (those committed to the custody of DJJ or those under DJJ supervision) may not exceed the number of beds available to the department to house them. Authorize and empower DJJ, if appropriation reductions necessitate that they close any additional facility, program, or housing unit they operate, or be unable to fund additional residential programs operated for their benefit, to release sufficient numbers of children committed to their custody or supervision who are in residential placements so that the number of children in these residential placements does not exceed the number of available housing units/beds. Direct that only children committed to the custody of DJJ or under DJJ supervision for a status offense, a misdemeanor offense or for violation of probation/contempt of a status offense or misdemeanor offense may be released. Prohibit children committed or under supervision for Assault and Battery of a High and Aggravated Nature and Assault with Intent to Kill from early release. Prohibit a child adjudicated delinquent for a violent crime as defined in Section 16-1-60 [FELONIES AND MISDEMEANORS; ACCESSORIES: VIOLENT CRIMES DEFINED], a felony offense as defined in Section 16-1-90 [FELONIES AND MISDEMEANORS; ACCESSORIES: CRIMES CLASSIFIED AS FELONIES], or a sexual offense from being released pursuant to this provision.

*53.era. (DJJ: Early Release Authorization) In order to avoid unconstitutional levels of overcrowding and other unconstitutional conditions from occurring in facilities operated by the department and in residential programs operated for the department, the number of children housed in residential placements (either committed to the custody of the Department of Juvenile Justice or who are under the department's supervision) shall not exceed the number of beds available to the department to house them. Should appropriation reductions necessitate that the department close any additional facility, program, or housing unit it operates, or to be unable to fund any additional residential program operated for its benefit, the department is authorized and empowered to release from its residential placements sufficient numbers of children committed to its custody or supervision for a status offense, a misdemeanor offense, other than Assault and Battery of a High and Aggravated Nature and Assault with Intent to Kill, or for violation of probation/contempt of a status offense or a misdemeanor offense, other*

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than Assault and Battery of a High and Aggravated Nature and Assault with Intent to Kill, so that the number of children in its custody or under its supervision and placed in these residential placements does not exceed the number of housing units/beds available to properly house those children. No child adjudicated delinquent for a violent crime as defined in Section 16-1-60 of the 1976 Code, a felony offense as defined in Section 16-1-90 of the 1976 Code, or a sexual offense shall be released pursuant to this proviso.

**SECTION 71 - C05 - ADMINISTRATIVE LAW COURT**

**71.3** **AMEND** (Fee Increase) Prohibits the Administrative Law Court, for FY 09-10, from charging or increasing filing fees beyond the amounts charged on January 1, 2009.

**PROVISO SUBCOMMITTEE RECOMMENDATION:** AMEND proviso to change "Fiscal Year 2009-2010" to "the current fiscal year." Fiscal Impact: No impact on the General Fund.

**71.3.** (ALJ: Fee Increase) For ~~Fiscal Year 2009-2010~~ *the current fiscal year*, the Administrative Law Court may not charge or increase filing fees beyond the amounts charged on January 1, 2009.

**SECTION 80A - F03 - BUDGET AND CONTROL BOARD**

**80A.35** **AMEND** (Sale of Surplus Real Property) Provides for the disposition of proceeds derived from the sale of surplus real property and provides for exemptions.

**PROVISO SUBCOMMITTEE RECOMMENDATION:** AMEND proviso to authorize the Department of Natural Resources to retain the net proceeds from the sale of existing offices originally purchased with a federal grant or with restricted revenue from hunting and fishing license sales for the improvement, consolidation, and/or establishment of regional offices and related facilities and require they report to the Senate Finance and House Ways and Means Committees on the status of property sold and provide a detailed accounting on expenditures resulting from the sale. Requested by Department of Natural Resources. Fiscal Impact: No impact on the General Fund.

**80A.35.** (BCB: Sale of Surplus Real Property) Up to 50% of the proceeds, net of selling expenses, from the sale of surplus real properties shall be retained by the Budget and Control Board and used for the deferred maintenance of state-owned buildings. The remaining 50% of the net proceeds shall be returned to the agency that the property is owned by, under the control of, or assigned to and shall be used by that agency for non-recurring purposes. This provision applies to all state agencies and departments except: institutions of higher learning; the Public Service Authority; the Ports Authority; the MUSC Hospital Authority; the Myrtle Beach Air Force Redevelopment Authority; the Department of Transportation; the Columbia State Farmers Market; the Department of Agriculture's Columbia Metrology Lab building and property; the Charleston Naval Complex Redevelopment Authority; the Department of Commerce's Division of Public Railways; the Midlands Technical College Enterprise Campus Authority; the Trident Technical College Enterprise Campus Authority; the Commissioner's residence at the Department of Corrections and the Educational Television Commission's Key Road property.

The Educational Television Commission shall be authorized to retain the net proceeds from the sale of its property on Key Road, and such proceeds shall only be used for the renovation of

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the ETV Telecommunications Center. If it is determined that sufficient net proceeds are not to be derived from the sale of its property on Key Road to cover the cost of all renovations of the Telecommunications Center, the property on Key Road shall not be sold. Any proposed sale hereunder shall, prior to said sale, be submitted to the Budget and Control Board for approval as being in compliance with the requirements of this subsection.

The Department of Corrections shall be authorized to retain the net proceeds from the sale of the residence provided for the Commissioner of the Department of Corrections and use such proceeds for deferred maintenance needs at the Department of Corrections.

The Forestry Commission shall be authorized to retain the net proceeds from the sale of a tract of land containing a total of ten acres or less in Horry County. Receipts generated by the sale of this tract shall be utilized for the agency's capital improvement and/or facility maintenance program. The commission may sell this tract of land at or above fair market value as determined by independent appraisal.

*The Department of Natural Resources shall be authorized to retain the net proceeds from the sale of existing offices originally purchased with a federal grant or with restricted revenue from hunting and fishing license sales for the improvement, consolidation, and/or establishment of regional offices and related facilities.*

The Department of Agriculture, the Educational Television Commission, the Department of Corrections, *the Department of Natural Resources*, and the Forestry Commission shall annually submit a report, within sixty days after the close of the fiscal year, to the Senate Finance Committee and the House Ways and Means Committee on the status of the sale of the identified property and a detailed accounting on the expenditure of funds resulting from such sale.

This provision is comprehensive and supersedes any conflicting provisions concerning disposition of state owned real property whether in permanent law, temporary law or by provision elsewhere in this act.

Any unused portion of these funds may be carried forward into succeeding fiscal years and used for the same purposes.

**SECTION 89 - X90 - GENERAL PROVISIONS**

**89.93**    **AMEND** (Offset Corrections Budget Reduction) Authorizes the Governor to transfer agency earmarked and restricted accounts designated as "special revenue funds" as defined in the Comptroller General's records from DMV to the Department of Corrections to offset any FY 09-10 budget deficit that has been officially recognized by the Budget and Control Board.

**PROVISO SUBCOMMITTEE:** AMEND proviso to change "2009-10" to "2010-11."

**89.93.** (GP: Offset Corrections Budget Reduction) The Governor shall be authorized to transfer agency earmarked and restricted accounts designated as "special revenue funds" as defined in the Comptroller General's records from the Department of Motor Vehicles to the Department of Corrections to offset any Fiscal Year ~~2009-10~~ 2010-11 budget deficit that has been officially recognized by the Budget and Control Board.